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PATENT
Attorney Docket No.: 465840-00078/A-61008-1/RFT/TAL

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

BUELOW, R.

Serial No. 09/742,148

Filed: December 19, 2000

For: CYTOMODULATING PEPTIDE FOR INHIBITING LYMPHOCYTE ACTIVITY

Examiner: Amy DeCloux

Group Art Unit: 1644

CERTIFICATE OF MAILING

I hereby certify that this correspondence, including listed enclosures, is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, DC 20231 on:

Dated: 8/19/02

Signed: Christine P. Peters
Christine P. Peters

RESPONSE TO NOTICE TO COMPLY

ASSISTANT COMMISSIONER FOR PATENTS
Washington, D.C. 20231

Sir:

This communication is in response to the Notice to Comply dated June 17, 2002. The Notice to Comply states that the specification fails to comply with the requirements of 37 C.F.R. §1.821-1.825. Specifically, the assertion of noncompliance is based on the absence of sequence identification numbers for a peptide disclosed in claim 16. Regarding the issue of absent sequence identification numbers for sequences described in claims 25 and 30-32, M.P.E.P §2422.03 provides

> [i]t is generally acceptable to present a single, general sequence in accordance with the sequence rules to discuss and/or claim variants of that general sequence without presenting each variant as a separate sequence in the "Sequence Listing."

Several examples are given as a guide, one of which the Applicants provide for illustration:

> With respect to a sequence that "may be deleted at the C-terminus by 1, 2, 3, 4, or 5 residues," all of the implied variations do not need to be included in the "Sequence listing." . . . In this latter

> example, only the undeleted sequence needs to be included in the "Sequence Listing" and the sequences may be described as SEQ ID NO: X from which deletions have been made at the C-terminus by 1, 2, 3, 4, or 5 residues. The Office's database will contain only the undeleted sequence.

See M.P.E.P §2422.03. The rational given for use of sequence identification numbers is that

> [t]he use of sequence identification numbers (SEQ ID NO: X) only provides a shorthand way for applicants to discuss and claim their inventions. These identification numbers do not in any way restrict the manner in which an invention can be claimed.

In the present application, a sequence identification number, SEQ. ID NO: 3 is provided for the general peptide sequence R V/E N/D L R I A/L L R/E Y Y W Q/D S recited in claim15. Claim 16 discloses a variation of SEQ. ID NO: 3. This sequence is disclosed on page 5, line 29 of the specification. Claim 16 depends from claim 15. Applicants believe that they have used sequence identification numbers in a manner specifically prescribed by the Patent Office. Accordingly, Applicants respectfully submit that specific sequence identification numbers, other than for the general sequence provided in claim 15, is not required for the peptide described in claim 16.

In view of the foregoing, Applicants respectfully submit that the claims and specification as amended comply with the requirements of 37 CFR §1.821-1.825.

The Commissioner is authorized to charge any fees, including extension fees, which may be required, or credit any overpayment to Deposit Account No. 502319 (Our Order No. 465840-00078/A-61008-1).

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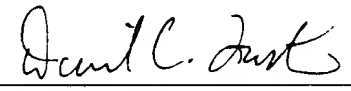
Please direct any calls in connection with this application to the undersigned at (415) 781-1989.

Respectfully submitted,
DORSEY & WHITENY LLP



David C. Foster, Reg. No. 44,685 for
Todd A. Lorenz, Reg. No. 39,754
Filed under 37 C.F.R. § 1.34(a)

Four Embarcadero Center, Suite 3400
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/742,148	12/19/2000	Roland Buelow	A-61008-1/RFT/TAL	8637

7590 06/17/2002

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EXAMINER	
DECLOUX, AMY M	
ART UNIT	PAPER NUMBER
1644	11

DATE MAILED: 06/17/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

File A-61008-1 Atty RFT/TAL
Due Date 7/17/2002
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/742,148	12-19-00	Buelow, R.	A-61008-1

COPY OF PAPERS
ORIGINALLY FILED

EXAMINER	
Amy DeCloux	
ART UNIT	PAPER NUMBER
1644	11

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application
Commissioner of Patent

It is noted that the amendment filed 4-24-02 (Paper No. 9) contains instructions for the amendment of claims 1, 2, 7, 8, 10 and 11. However, amendments to these claims were not entered because applicant canceled claims 1-12 in Applicant's preliminary amendment filed 12-19-00, (Paper No. 2).

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures. **Specifically, a sequence lacking a SEQ ID NO: tag is recited in claim 16.** Applicant must comply with the requirements of the sequence rules (37 CFR 1.821 - 1.825) before the application can be examined under 35 U.S.C. §§ 131 and 132.

Applicants are required to submit a CRF disk and paper copy of the sequences according to the attached "Notice to Comply with the Sequence Rules." Applicant is reminded of the sequence rules which require a submission for all sequences of more than 9 nucleotides or 3 amino acids (see 37 C.F.R. 1.821-1.825) and is also requested to carefully review the submitted specification and claims for any and all sequences which require compliance with the rules.

Applicant is given TIME PERIOD of ONE EXTENDABLE MONTH, from the mailing date of this letter within which to comply with the sequence rules, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). In no case may an applicant extend the period for reply beyond the SIX MONTH statutory period. Direct the reply to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the reply.

A reply to a notice to comply with the sequence rules should NOT be sent to the 20231 zip code address for the United States Patent and Trademark Office.

Please direct all replies to the United States Patent and Trademark Office via one (1) of the following:

1. Electronically submitted through EFS-Bio (**<http://www.uspto.gov/ebc/efs/downloads/documents.htm>**, EFS Submission User Manual - ePAVE)

2. Mailed to:
U.S. Patent and Trademark Office
Box Sequence, P.O. Box 2327
Arlington, VA 22202

3. Mailed by Federal Express, United Parcel Service or other delivery service to:
U. S. Patent and Trademark Office
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Customer Window, Box Sequence
Crystal Plaza Two, Lobby, Room 1B03
Arlington, Virginia 22202

4. Hand Carried directly to the Customer Window at:
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Crystal Plaza Two, Lobby, Room 1B03, Box Sequence,
Arlington, Virginia 22202

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Amy DeCloux whose telephone number is (703) 306-5821. The examiner can normally be reached Monday through Friday from 9:00 am to 6:00 pm. Or a message may be left on the examiner's voice mail service. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christina Chan can be reached on (703) 308-3973. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

Amy DeCloux, Ph.D.
Patent Examiner
Group 1640
Technology Center 1600
June 14, 2002

Amy DeCloux
6-14-02

Application No.: 09/742,148

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

[X] 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.

[ ] 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).

[ ] 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).

[ ] 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."

[ ] 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).

[ ] 6. The paper copy of the "Sequence Listing" is not the same as the computer readable from of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).

[X] 7. Other: **See attached communication, regarding the requirement to identify each Sequence in the spcification with a unique SEQ ID NO: tag.**

COPY OF PAPERS ORIGINALLY FILED

Applicant Must Provide:

[X] An initial or substitute computer readable form (CRF) copy of the "Sequence Listing"

[X] An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.

[X] A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216
For CRF Submission Help, call (703) 308-4212
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